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FEDERAL COMMUNICATIONS COMMISSION
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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-98
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	

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BELL ATLANTIC'S RESPONSE TO PETITIONS FOR RECONSIDERATION

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Dated: November 20, 1996

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BELL ATLANTIC'S RESPONSE TO PETITIONS FOR RECONSIDERATION

Bell Atlantic[1] submits the following response to the petitions for reconsideration of the Commission's *Second Report and Order* in this proceeding.[2]

Summary

The Commission should reconsider the *Order* to give the States the flexibility they need to devise area code relief plans that best meet their local needs. At the same time, the Commission should refuse to further condition or restrict the use of area code overlays.

The Commission should also reconsider its new approach to allocating the costs of number administration. Instead it should either to revert to the plan it adopted a

[1] The Bell Atlantic telephone companies serving New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the District of Columbia and Bell Atlantic Communications Inc.

[2] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Second Report and Order, CC Docket No. 96-98, FCC 96-333 (rel. Aug. 8, 1996) ("*Order*").

year ago, which it found to be competitively neutral, or to allocate these costs based on retail telecommunications revenues.

Although Bell Atlantic does not see anyinconsistency in the Commission's regulations on this point, the Commission should confirm that exchange carriers providing intraLATA presubscription are not required to block the 1+ intraLATA toll calls of existing customers if those customers do not affirmatively select a carrier to handle those calls.

Bell Atlantic agrees with MFS and USTA that the Commission misinterpreted the duty to provide nondiscriminatory access to directory listings. This duty relates to printing information in telephone directories and has nothing to do with directory assistance.

The Commission should also revise its new network disclosure rules so that they impose only those obligations required by the 1996 Act and extend those obligations to all carriers.

1. Number Administration

Area code administration. The Commission correctly decisided to retain the authority to set policy on all aspects of number administration and to delegate matters involving the implementation of new area codes to the States.[3] Bell Atlantic agrees with the Commission that "states are uniquely situated to determine what type of area code relief is best suited to local circumstances."[4]

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[3] *Order* ¶¶ 271-72.

[4] *Order* ¶ 283.

In this connection, Bell Atlantic agrees with the Pennsylvania Commission and others[5] that the Commission was wrong to restrict the discretion of the States in implementing area code relief because circumstances in one locality can be very different from those in another area and from the national norm. A good example relates to the Commission's regulation concerning how local calls must be dialed if an area code overlay is adopted.[6] The Commission based its ten-digit dialing requirement on the assumption that new entrant local exchange carriers will have to assign their customers numbers in the new code.[7] Whether or not this is true in general,[8] it certainly might not be the case in particular localities,[9] and the States should have the flexibility to look at local conditions and to permit seven-digit dialing if they believe it to be in the best interests of their citizens.

Bell Atlantic also supports the petitions of USTA and others[10] to refine the requirement of new section 52.19(c)(3)(i) of the Commission's Rules. This rule provides

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5 Pa PUC at 2-4; NYNEX at 13; NYDPS at 11-12.

6 47 C.F.R. § 52.19(c)(3)(ii).

7 *Order* ¶ 286.

8 Most customers of the new entrants will have been customers of the incumbent local exchange carrier and will be able to continue to use their numbers in the old area code through number portability arrangements.

9 For example, in the 412 area code in Pennsylvania, as of August 31, the 744 usable NXX codes were allocated as follows: Bell Atlantic-PA, 52%; other incumbents, 15%; competitors, 25%; and unassigned, 8%. The conservation measures approved by the Pennsylvania Commission are expected to result in all or nearly all 60 remaining NXX's being assigned to competitors by June 30, 1997. Thus, by the time of NXX code exhaust, competitors likely will control approximately 243 NXX's, or one of every three usable NXX's, and will have more than 2.4 million 412 telephone numbers either assigned or assignable to their customers.

10 USTA at 9-11; BellSouth at 8-9; NYNEX at 11-12.

that an NPA overlay is permissible if every telecommunications carrier authorized to provide exchange service in that NPA "90 days before introduction of the new overlay area code is assigned during that 90 day period at least one central office code in the existing area code." Bell Atlantic has no objection to a rule permitting all providers authorized by some date to have a central office code in the existing NPA. However, the rule adopted by the Commission is unworkable as a practical matter and could disrupt State area code relief plans .

State commissions typically adopt NPA relief plans a year or more before they are put into effect because the industry and the public need time to get ready for the new arrangements. Thus, there will be many months between the time a State decides on an overlay and the "introduction of the new overlay area code." Under this rule, however, no one can know for sure if the condition has been met until 90 days before "introduction," at which time it would be too late to change course. The only way to be sure in advance that this condition could be satisfied would be to set a large number of NXX's aside for as-yet-unauthorized carriers. This would be an inefficient use of codes, especially in areas that are already rationing.

This problem with the rule can be remedied in several ways. First, of course, the rule can be eliminated entirely, leaving to each State the responsibility of ensuring that area code relief is accomplished fairly. If, however, the Commission feels that it must have a rule on this subject, a more general direction to the States to "adopt area code relief plans that provide for the equitable and competitively neutral assignment of unassigned codes in the existing area code" would be appropriate. Another approach

would be to require that each carrier authorized to provide telephone exchange service on the date of the adoption of the area code overlay plan has a right to a central office code in the existing area code.

The Commission should reject the request of several petitioners to take more authority away from the States by prohibiting the use of area code overlays.[11] These petitioners offer no new facts or arguments that the Commission has not already considered and rejected. It should also reject requests, like that of AT&T,[12] that would add more conditions to the States' ability to adopt overlay area codes, effectively making it impossible for them to do so.

Cost recovery. The Commission should reconsider the change it adopted in this order to the way the costs of number administration are recovered. A year ago in Docket 92-237, the Commission concluded that "the gross revenues of each communications provider should be used to compute its contribution to the NANP Administrator."[13] At that time, the Commission concluded that this would be "fair [and] competitively neutral."[14] Nothing in the Telecommunications Act required the Commission to change its mind and to allocate these costs instead based on providers' net revenues. For the reasons given by USTA and others,[15] the Commission should either

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11 MFS at 2-6; AT&T at 8-9; TCG *passim*; Cox *passim*.

12 AT&T at 5-8.

13 *Administration of the North American Numbering Plan*, 11 FCC Rcd 2588, 2627-28 (1995).

14 *Id.* at 2628.

15 USTA 5-7; BellSouth at 7; NYNEX at 2-5; SBC at 19-20.

return to the formula that it found to be "competitively neutral" a year ago or prescribe an allocation formula based on total retail telecommunications revenues.

2. Dialing Parity

IntraLATA presubscription. SBC suggests that the Commission has been confusing and inconsistent in its decision concerning one aspect of intraLATA presubscription.[16] While Bell Atlantic does not see any inconsistency in the Commission's rules, now that the issue has been raised, it would be appropriate for the Commission to make sure that there are no misunderstandings.

The Commission, correctly in Bell Atlantic's view, left to each State to determine the details and mechanics of implementing intraLATA presubscription, including the type of educational activities that are appropriate to inform consumers of their new options. In doing so, the Commission declined to require customer balloting as part of the intraLATA presubscription process.[17] One of the few specific requirements imposed by the Commission, in new section 51.209(c) of the Commission's Rules, is that "[a] LEC may not assign automatically a customer's intraLATA toll traffic to itself . . . or to any other carrier." This means, as the accompanying *Order* explains, that an exchange carrier may not sign up new customers for its own service — it must give the customer a choice of 1+ carrier, and, if the customer fails to choose, it must deny that customer 1+ intraLATA toll dialing.[18]

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16 SBC at 2; see also USTA at 7-8.

17 *Order* ¶ 80.

18 *Order* ¶ 81.

This regulation plainly does not say that an exchange carrier must on its own disrupt a customer's existing service arrangement. In particular, it does not require that a consumer's 1+ intraLATA toll dialing must be disconnected unless the customer re-subscribes to the exchange carrier after intraLATA presubscription is announced. If the exchange carrier simply continues existing arrangements for existing customers, it would not be "assign[ing] automatically a customer's intraLATA toll traffic to itself" in violation of the Commission's rule.

Access to directory listings and directory assistance. MFS and USTA have both identified the same problem with the Commission's *Order*,[19] although they come at the issue from different angles. The problem stems from the confusion in the *Order* between directory listings and directory assistance.

Section 251(b)(3) requires all exchange carriers to provide other carriers nondiscriminatory access to "directory listings." Bell Atlantic agrees with MFS that this "means that a LEC publishing a telephone directory has the duty to incorporate a listing supplied by its competitor."[20] Bell Atlantic also agrees with MFS that the Commission's interpretation of this duty as having anything to do with directory assistance is "erroneous."

This error does more than deny MFS and others the right that Congress intended. By interpreting directory listings to mean the information listed in directories, including the directory assistance database, the *Order* requires exchange carriers to

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19 MFS at 10-13; USTA at 2-4.

20 MFS at 10-11.

provide the information in "magnetic tape or electronic formats,"[21] an obligation not intended by Congress.

The fact that the Commission's interpretation is incorrect is apparent from the fact that Congress used a different term when it wanted to refer to this type of information, namely "subscriber list information."[22] If Congress had wanted to give carriers a right to obtain this information under section 251, it would have used the term it coined in section 222. The Commission's conclusion that that the terms "directory listings" and "subscriber list information" are synonymous[23] is both illogical and without basis under established principles of statutory construction.

3. Notice of Technical Changes

The Commission should grant the petitions of SBC and NYNEX to modify the network disclosure rules.[24] The *Order* takes a very expansive view of the applicable statutory language by requiring disclosure of any network change that "affects competing service providers' performance or ability to provide service."[25] The statute, however, limits disclosure to "changes in the information *necessary* for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as any other changes that would affect interoperability of those facilities and networks."[26]

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21 47 C.F.R. § 51.217(c)(3)(ii).

22 47 U.S.C. § 222(f)(2).

23 *Order* ¶ 137.

24 SBC at 14-19, NYNEX at 8-10.

25 *Order* ¶ 171.

26 47 U.S.C. § 251(c)(5).

As NYNEX points out, notification and publication standards have been adopted by industry fora to meet the needs of all segments of the telecommunications industry.[27] There is no need for the Commission to adopt disclosure requirements, not required by statute, which differ from those that the intended beneficiaries have found fully satisfy their needs or are more expansive than those contemplated in the statute.

The Commission should also streamline the short-notice approval process, as SBC proposes.[28] As written, the complex and cumbersome comment and approval cycle could take at least half of the normal six-month notice period and could largely make the short-notice provision a nullity. SBC proposes a simplified comment and approval process that could reduce the approval period to about one month.[29] Bell Atlantic urges the Commission to adopt that proposal. However, even one month may be too long a period to wait to implement certain network changes, such as those needed to meet immediate market demands. Accordingly, after the Commission and the industry have had some experience with the new disclosure requirements, the Commission should entertain proposals to give blanket approval for short-period disclosure of certain categories of network changes, without the need to file a separate request in each instance.

Finally, the Commission should also grant the petitioners' requests to apply the network disclosure rules to all carriers, not just to incumbent exchange

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27 NYNEX at 10.

28 SBC at 16-18.

29 SBC at 17

carriers.[30] Even before the 1996 Act's broad interconnection requirements, telecommunications service had been provided through a "network of networks." With expanded local interconnection and the return to physical collocation, even more calls will be carried by multiple carriers. Full interconnection and interoperability can be assured only by requiring all carriers to disclose to all others the technical standards through which they can interconnect and interoperate. The Commission has long recognized the need for all carriers to disclose interconnection standards, through the "All Carrier Rule,"[31] and there is nothing in the statute that requires or authorizes it to deviate from that sensible approach.

Conclusion

Bell Atlantic urges the Commission to decide the various petitions for reconsideration as indicated above.

Respectfully submitted,

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Dated: November 20, 1996

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30 SBC at 15-16, NYNEX at 8-9.

31 *See Competition in the Interstate Interexchange Marketplace*, 6 FCC Rcd 5880, 5911 n.270 (1991); 47 C.F.R. §§ 68.110(b), 64.702(d)(2).

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 1996 a copy of the foregoing "Bell Atlantic's Reponse to Petitions for Reconsideration" was sent via first class mail, postage prepaid, to the parties on the attached list.

Tracey DeVaux

* Via hand delivery.

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